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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-991]

Chlorinated Isocyanurates from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") published the *Preliminary Determination* of the countervailing duty ("CVD") investigation of chlorinated isocyanurates ("isos") from the People's Republic of China ("PRC") on February 24, 2014.<sup>1</sup> The Department determines that countervailable subsidies are being provided to producers and exporters of isos from the PRC. For information on the estimated subsidy rates, *see* the "Suspension of Liquidation" section of this notice. The period of investigation is January 1, 2012 through December 31, 2012.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*).

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Kangtai) or Paul Walker (Jiheng), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202.482.2312, or 202.482.0413, respectively.

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<sup>1</sup> See *Countervailing Duty Investigation of Chlorinated Isocyanurates from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Determination*, 79 FR 10097 (February 24, 2014) ("*Preliminary Determination*").

## SUPPLEMENTARY INFORMATION:

### ***Background***

The Department published the *Preliminary Determination* on February 24, 2014.<sup>2</sup> Petitioners in this case are Clearon Corp. and Occidental Chemical Corporation. Between May 22 and July 18, 2014, we conducted a verification of the questionnaire responses of the Government of the PRC (“GOC”), Hebei Jiheng Chemicals Co., Ltd. (“Jiheng”)<sup>3</sup> and Juancheng Kangtai Chemical Co., Ltd. (“Kangtai”). Between July 31, 2014 and August 5, 2014, interested parties submitted case and rebuttal briefs. A full discussion of the issues raised by parties for this final determination may be found in the I&D Memo, which is hereby adopted by this notice.<sup>4</sup> The I&D Memo is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memo can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed I&D Memo and the electronic versions are identical in content.

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<sup>2</sup> *Id.*

<sup>3</sup> Including its cross-owned affiliates Hebei Jiheng Baikang Chemical Industry Co., Ltd. (“Baikang”) and the Hebei Jiheng Group Co., Ltd. (the “Jiheng Group”).

<sup>4</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Countervailing Duty Investigation of Chlorinated Isocyanurates from the People’s Republic of China: Issues and Decision Memorandum for the Final Determination,” dated concurrently with this notice (“I&D Memo”).

### ***Scope Comments***

In accordance with the preamble to the Department's regulations and as stated in the *Initiation*<sup>5</sup>, we set aside a period of time for parties to raise issues regarding product coverage. We encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation*. No parties submitted scope comments in this investigation.

### ***Scope of the Investigation***

The products covered by this investigation are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ("TCCA") ( $\text{Cl}_3(\text{NCO})_3$ ), (2) sodium dichloroisocyanurate (dihydrate) ( $\text{NaCl}_2(\text{NCO})_3 \times 2\text{H}_2\text{O}$ ), and (3) sodium dichloroisocyanurate (anhydrous) ( $\text{NaCl}_2(\text{NCO})_3$ ). Chlorinated isocyanurates are available in powder, granular and solid (*e.g.*, tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

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<sup>5</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); *Chlorinated Isocyanurates from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 78 FR 59001 (September 25, 2013) ("*Initiation*").

### ***Analysis of Subsidy Programs and Comments Received***

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the I&D Memo. A list of the issues that parties raised, and to which we responded in the I&D Memo, is attached to this notice as an Appendix.

### ***Use of Adverse Facts Available***

For purposes of this final determination, we relied on facts available, and drawn an adverse inference, in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (“Act”), in determining the countervailability of the GOC’s provision of electricity. The GOC provided no provincial-specific information in response to questions from the Department in its initial questionnaire response and in a supplemental questionnaire response. Because of the GOC’s failure to respond to the Department’s questions, necessary information regarding the GOC’s provision of electricity is not on the record. Thus, we determine that we must rely on facts otherwise available in this final determination in analyzing this program.<sup>6</sup> Moreover, we find that the GOC failed to cooperate by not acting to the best of its ability and, consequently, an adverse inference is warranted in the application of facts available.<sup>7</sup> As adverse facts available, we determined that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. We also relied on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit. For a full discussion of this

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<sup>6</sup> See sections 776(a)(1) and (a)(2)(A) of the Act (stating that the Department may make a determination based on facts available if “(1) necessary information is not available on the record” or “(2) an interested party” “(A) withholds information that has been requested” by the Department).

<sup>7</sup> See section 776(b) of the Act (permitting the Department to “use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available” if “an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information” from the Department).

issue, *see* the I&D Memo at “Use of Facts Otherwise Available and Adverse Inferences” and Comment 1.

We also relied on facts available, and drew an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine the subsidy rate for the Jiheng Group’s electricity for less than adequate remuneration. The Jiheng Group failed to report its electricity purchases for one of its branch companies, Jiheng Lantian Chemical Branch Company (“Lantian”). Because of the Jiheng Group’s failure to report these purchases, necessary information regarding Lantian’s electricity purchases are not on the record. Thus, we determine that we must rely on facts otherwise available in this final determination in calculating the Jiheng Group’s CVD rate.<sup>8</sup> Moreover, we find that the Jiheng Group failed to cooperate by not acting to the best of its ability and, consequently, an adverse inference is warranted in the application of facts available.<sup>9</sup> As adverse facts available, we inferred that Lantian’s purchases of electricity occurred at the lowest possible rate, and that the benchmark used to calculate the benefit is from the high peak rate. For a full discussion of this issue, *see* the I&D Memo at “Use of Facts Otherwise Available and Adverse Inferences” and Comment 2.

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each company respondent. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an “all others” rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

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<sup>8</sup> *See* sections 776(a)(1) and (a)(2)(A) of the Act.

<sup>9</sup> *See* section 776(b) of the Act.

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all others” rate by weight averaging the rates of Jiheng and Kangtai because doing so risks disclosure of proprietary information. Therefore, we calculated a simple average of Jiheng’s and Kangtai’s rates.<sup>10</sup> Since both Jiheng and Kangtai received countervailable export subsidies and the “all others” rate is an average based on the individually investigated respondents, the “all others” rate includes export subsidies.

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate
Hebei Jiheng Chemicals Co., Ltd.	20.06
Juancheng Kangtai Chemical Co., Ltd.	1.55
All Others	10.81

### ***Suspension of Liquidation***

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of subject merchandise from the PRC that were entered, or withdrawn from warehouse, for consumption on or after February 24, 2014, the date of the publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after June 24, 2014, but to continue the suspension of liquidation of all entries from February 24, 2014, through June 23, 2014.

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<sup>10</sup> See, e.g., *Certain Oil Country Tubular Goods From the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964, 41965 (July 18, 2014).

If the International Trade Commission (“ITC”) issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act, and we will require a cash deposit of estimated CVDs for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

### ***ITC Notification***

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (“APO”), without the written consent of the Assistant Secretary for Enforcement and Compliance.

### ***Return or Destruction of Proprietary Information***

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 8, 2014.

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Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

#### Appendix – I&D Memo

- Comment 1: Appropriate High Peak, Peak, Normal and Valley Electricity Benchmarks
- Comment 2: Jiheng's Electricity Consumption
- Comment 3: Kangtai's Electricity Consumption
- Comment 4: Specificity Issue for the Provision of Urea for Less than Adequate Remuneration



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